IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 8TH MAY 2007 / 18TH VAISAKHA 1929

WP(C).No. 14462 of 2007(S)

AGAINST THE ORDER DATED / / IN IA.1749/2007 IN OP.755/2005 of FAMILY COURT,ERNAKULAM
.....

PETITIONER:

V.K.VIJI,AGED 39,
S/O.KARUNAKARAN,
VADAKKEDATH VEEDU,
AZAD ROAD,KALOOR,
ERNAKULAM.

BY ADV. SMT.NAINA RAJI NAIR

RESPONDENT:

K.R.SHIMY,AGED 29,
D/O.RAMAKRISHNAN.K.V.,
KANNATHUSSERIL HOUSE,
PARAVUR VILLAGE,
PARAVUTHARAMURI.

BY ADV.SRI.HARISH R.MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.RAMKUMAR & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(c)No.14462 OF 2007

Dated this the 8th day of May, 2007

JUDGMENT

Ramkumar, J.

This writ petition has been filed by the petitioner who is the husband of the respondent challenging Ext.P3 order of the family court, Ernakulam dated 30/04/2007 refusing permission to examine the fourth witness mentioned in the witness schedule filed by the petitioner. Petitioner is the respondent in O.P.No.755/05 filed before the family court by the respondent herein seeking divorce on the ground of cruelty and desertion. The purpose for which the fourth witness was sought to be examined was to prove the allegation of extra marital affair which the husband alleges against his wife. Admittedly the husband is not claiming any divorce on that ground. On the contrary, his contention is that it was the extra marital affair of his wife which had resulted in the break down of the marriage. The only issue which is germane for consideration before the Family court

is as to whether the wife has proved her allegation of cruelty and desertion so as to justify a decree for divorce. In order to prove the same, the examination of the fourth witness sought by the petitioner was unnecessary and irrelevant. We find no ground to interfere with the order of the Family court. Accordingly this writ petition is dismissed. In case the petitioner is aggrieved by the final outcome of the main proceedings before the Family Court, the petitioner can raise all contentions available to him in an appeal against the final order.

V.RAMKUMAR, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

sv.